IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3111 OF 2007

Ajay Ramsevak Singh. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Niranjan Mundargi i/b. Shounak Mehta
for the applicant.

Rajesh More, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 3rd October 2007.

P.C.:
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1. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. By this application, the applicant has invoked inherent jurisdiction of this Court under section 482 of Code of Criminal Procedure. He is also seeking bail in connection with CR.No.I-119/2007 registered with Central Police Station, Ulhasnagar, district-Thane for the offences punishable under sections 406,454, 457, 380 read with section 34 of Indian Penal Code.

3. Having heard rival parties, it appears that

the applicant is a resident of flat No.302, Mahesh Apartment, Khadegolivali, Kalyan (E), district- Thane. The applicant was enlarged on bail vide order dated 30th June, 2007 passed in Anticipatory Bail Application No.485/2007 by learned Additional Sessions Judge, Kalyan on the following conditions:

> "1. Respondent was directed to furnish P.R.bond of Rs.15,000/- with one solvent surety of equal amount.
>
> 2. To attend the police station as and when called and to co-operate to police.
>
> 3. Not to leave jurisdiction of court till completing the investigation.
>
> 4. Not to tamper the evidence.
>
> 5. To furnish registered permanent address.

4. It appears that the applicant did not furnish his registered permanent address to the investigating officer. One of the conditions put was to attend concerned police station as and when called and to cooperate with the police. The Sessions Court, while cancelling the bail, in para-14 of the impugned order has stated that three different constables on three different times had gone to the residence of the applicant, however, he was not found there. With the result, the anticipatory bail granted in favour of the applicant came to be cancelled vide order dated 10th September, 2007 passed by learned Sessions Judge,

Kalyan in the Criminal Application No.39/2007 moved at the instance of prosecution.

5. The learned counsel for the applicant has filed affidavit of one Dhirendra Pratap Singh dated 26th September, 2007 stating therein that no police constable had visited the house of his brother-in-law i.e. the present applicant- Ajay Ramsevak Singh. The applicant has also produced documents to show that he is resident of flat No.302 and not of flat No.312. It appears that on the society's board the residential address of the applicant has been shown as flat No.312, whereas he is a resident of flat No.302. This appears to have created some confusion and communication gap between the applicant and the investigating officer, which, ultimately, resulted in accepting the version of the investigating officer and cancelling the bail.

6. It is needless to mention that while granting anticipatory bail or while putting certain conditions, it was expected on the part of the Sessions Court to put the condition to compel the applicant to visit police station rather than asking police to issue notice and summon him before the investigating

officer. Had such condition been put harassment to the applicant and also to prosecution to approach to the Court for cancellation of bail could have been avoided. It is expected that the Sessions Court will take in account this aspect of matter. In the aforesaid backdrop, the impugned order dated 10th September, 2007 is quashed and set aside. The application for anticipatory bail is restored to the file of the Sessions Court with direction to reconsider it on its own merits.

7. Application, accordingly, stands disposed of.

JUDGE